

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KYLE T. J. MAYFIELD,

Plaintiff,

: Case No. 3-21-cv-286

- vs -

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

STATE OF OHIO, et al.,

:

Defendants.

REPORT AND RECOMMENDATIONS

This case is before the Court on Plaintiff's Objection; Request for Time Extension; Declaratory Relief (ECF No. 30). This filing is apparently in response to the Order of June 27, 2022, by District Judge Newman in which he adopted the First and Second Reports and Recommendations of the undersigned to dismiss the Complaint herein, except for granting Plaintiff leave to file an amended complaint as against Montgomery County corrections officers for use of excessive force in violation of 42 U.S.C. § 1983 (Order, ECF No. 29, PageID 230).

Instead of claims that might be viable under Judge Newman's Order, Plaintiff has filed a proposed amended complaint which seeks declaratory or injunctive relief relating to the ongoing prosecution of his criminal case in the Montgomery County Court of Common Pleas. Moreover, most of the conduct complained of has occurred since Judge Newman's Order and Plaintiff is asking this Court to intervene to prevent repetition.¹

¹ If the Magistrate Judge is misreading Plaintiff's proposed amended claims, he apologizes, but the document is

As the Court has previously advised Plaintiff, federal courts cannot interfere in the day-to-day management of criminal cases in state court. *Heck v. Humphrey*, 512 U.S. 477–478 (1994). Plaintiff's proposed amended complaint should be stricken and this case dismissed in its entirety.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #

July 28, 2022.

s/ Michael R. Merz
United States Magistrate Judge